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5514 7590 01/07/2009 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
ZHU, RICHARD Z				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### DETAILED ACTION

#### *Response to Applicant's Arguments*

1. The applicant argued “Applicant, respectfully, submits that the memory means and calculating means as recited in independent claim 1 are not provided for in McLean. While McLean does teach the calculating of the average power consumed, nothing in McLean discloses or suggests that the calculation is based on the power consumption amount per unit time and the operation times timed by the timing means. Rather, the calculations in McLean are based on either the average power consumption and/or the average time. (Col. 5, line 1 to col. 6, line 30). Further, the power consumption amount per unit time is not stored on a memory means. Rather, this data is obtained from a specification sheet of a particular disk drive or the rule of thumb value is used (Col. 6, lines 31-37). Thus, McLean fails to disclose or suggest the image processing apparatus recited in claim 1, and Applicant believes that the present invention recited in that claim is patentably distinguishable from McLean.”. The examiner disagrees with the applicant for the following reasons.
2. Per “nothing in McLean discloses or suggests that the calculation is based on the power consumption amount per unit time and the operation times timed by the timing means”.

In at least calculating power consumption in sleep state or mode, calculation is on the basis of at least the operation times timed by the timing means (Col 7, Rows 58-67 and Col 8, Rows 62-67, there is a wait time clock to increment variable WT whereas at the end of the process  $t_{\text{wait}} = \text{WT}$ . This is certainly not average time but rather actual time measured by an internal clock) and power consumption per unit time (see Col 5, Equation

3,  $t_{\text{wait}}$   **$P_a$  wherein  $P_a$  is the power consumed while in active state**). While it may be true that  $P_a$  is an average power obtained from specification, however, in order for it be known to the computer it must be loaded into an inherent memory of the computer since it is the computer that performs the calculation. Furthermore, US 6002878 A discloses "power may be instantaneous (**the rate of energy consumption at an instant in time**) or average (**the rate of energy consumption over a period of time**)" (Col 3, Rows 10-18). That is, the examiner understands power consumption per unit time as power consumption over a period of time or average power. As such, at least  $P_a$  suits applicant's claimed "power consumption per unit time".

No where in the claim did the applicant require a limitation that would distinguish the claim over the prior art in at least how power consumption amount per unit time is obtained. As such, obtaining power consumption amount per unit time from specification sheet reads on the instant claimed invention ("**reading out operation time data for said each operation mode and operation time data for an operator**"? **Reading power consumption amount per unit time from a specification sheet into a memory of the computer to calculate power consumption amount in active mode and sleep mode reads on this limitation**).

Since the examiner asserted that other prior arts of record within the combination does not disclose the limitation as recited in the previous office action, the rejection stands and falls with *McLean*.

RZ<sup>2</sup>  
01/05/2009

/King Y. Poon/

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Supervisory Patent Examiner, Art Unit 2625